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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,337	07/13/2001	Shoji Kodama	16869B-026500US	6430

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EXAMINER

BLAIR, DOUGLAS B

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/905,337	Applicant(s) KODAMA, SHOJI	
	Examiner Douglas B Blair	Art Unit 2142	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/04 and 11/03</u> . | 6) <input type="checkbox"/> Other: _____ |

an

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 15, 20, 27, and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “pair of storage elements” in claims 1, 15, 27, and 36 is used by the claim to mean “two or more storage units”, while the accepted meaning is “two storage units.” The term is indefinite because the specification does not clearly redefine the term.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 1-36 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,601,101 to Lee et al..

6. As to claim 1, Lee teaches a system for optimizing data access, comprising: a file server capable of communicating with one or more clients (col. 17, lines 23-44); and a plurality of storage elements organized into pairs for storing a plurality of files, each pair having a master storage element and one or more mirrored storage elements, and each mirrored storage element having a copy of data stored on the master storage elements wherein the file server maintains file information on where each of the plurality of files is stored on which pair of storage elements (col. 17, lines 23-44); wherein the file server further maintains access load information on each pair of storage elements (col. 7, lines 35-58); and wherein when a client requests file information for a requested file from the file server, the file server determines which pair of storage elements has the requested file and further determines which of the storage elements within the pair of storage elements having the requested file is to be accessed (col. 17, lines 23-44).

7. As to claim 2, Lee teaches a system according to claim 1 wherein the plurality of storage elements is a plurality of disk drives (col. 6, lines 39-60).

8. As to claim 3, Lee teaches a system according to claim 1 wherein the plurality of storage elements are stored on a single storage system (col. 6, lines 39-60).

9. As to claim 4, Lee teaches a system according to claim 1 wherein the plurality of storage elements are stored on one or more storage systems (col. 6, lines 39-60).

10. As to claim 5, Lee teaches a system according to claim 1 further comprising: a plurality of host computers (col. 6, lines 39-60); wherein the file server resides on one of

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the plurality of host computers (col. 6, lines 39-60); and wherein the one or more clients reside on remaining ones of the plurality of host computers (col. 6, lines 39-60).

11. As to claim 6, Lee teaches a system according to claim 1 further comprising: a sync daemon configured to synchronize data stored on each pair of storage elements (col. 17, line 45-col. 18, line 21).

12. As to claim 7, Lee teaches a system according to claim 1 wherein the master storage element and the one or more mirrored storage elements within a pair are stored on a single storage system (col. 6, lines 39-60).

13. As to claim 8, Lee teaches a system according to claim 1 wherein the master storage element and the one or more mirrored storage elements within a pair are stored on one or more storage systems (col. 6, lines 39-60).

14. As to claim 9, Lee teaches a system according to claim 8 wherein if it is determined that a mirrored storage element is to be accessed for the requested file and the mirrored storage element which is to be accessed contains a latest copy of data for the requested file stored on the requested file from the corresponding master storage element, the client directly retrieves the mirrored storage element (col. 12, line 57-col. 13, line 54).

15. As to claim 10, Lee teaches a system according to claim 8 wherein if it is determined that a mirrored storage element is to be accessed for the requested file and the mirrored storage element which is to be accessed does not contain a latest copy of data for the requested file stored on the corresponding master storage element, the latest copy of data for the requested file stored on the corresponding master storage element is retrieved from the corresponding master storage element and then forwarded to the client (col. 12, line 57-col. 13, line 54).

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16. As to claim 11, Lee teaches a system according to claim 1 wherein the file information on where each of the plurality of files is stored on which pair of storage elements includes file allocation lists (col. 17, line 45-col. 18, line 21).

17. As to claim 12, Lee teaches a system according to claim 1 wherein when determining which of the storage elements within the pair of storage elements having the requested file is to be accessed, consideration is given to ensure that all the storage elements within the pair of storage elements having the requested file are substantially accessed in a balanced manner (col. 17, line 45-col. 18, line 21).

18. As to claim 13, Lee teaches a system according to claim 1 wherein upon determining which of the storage elements within the pair of storage elements having the requested file is to be accessed, the file server forwards information relating to the determination to the client thereby allowing the client to retrieve the requested file from the determined storage element (col. 12, line 57-col. 13, line 54).

19. As to claim 14, Lee teaches a system according to claim 13 wherein upon forwarding the information relating to the determination to the client, the file server updates the access load information to ensure accurate monitoring of access balance of the pairs (col. 12, line 57-col. 13, line 54).

20. As to claims 15-36, they feature the same limitations as claims 1-14 and are rejected for the same reasons claims 1-14.

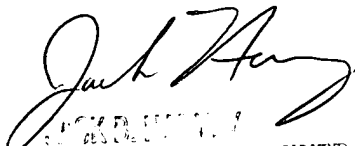
Conclusion

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21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B Blair whose telephone number is 571-272-3893. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 571-272-3896. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JACK HARVEY
SUPERVISOR, PATENT EXAMINER

Douglas Blair

DBB